

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 94-577-T - ORDER NO. 95-1365 ✓  
JULY 31, 1995

IN RE: Application of Jimmie Ray Collins dba	)	ORDER
Collins Moving & Storage, 124 Dogwood	)	DENYING
Lane, Inman, SC 29349, to Amend Class E	)	APPLICATION
Certificate of Public Convenience and	)	TO AMEND
Necessity No. 9548.	)	CERTIFICATE

This matter comes before the Public Service Commission of South Carolina (the Commission) on the Application of Jimmie Ray Collins dba Collins Moving & Storage (Collins or the Applicant) to amend its Class E Certificate of Public Convenience and Necessity No. 9548 authorizing it to transport property as follows:

HOUSEHOLD GOODS, AS DEFINED IN R.103-211(14): Between points and places in Greenville and Spartanburg Counties, South Carolina.

The Certificate when amended would read as follows:

HOUSEHOLD GOODS, AS DEFINED IN R.103-211(14): Between points and places in South Carolina.

The Application was filed pursuant to S.C. Code Ann., §58-23-40 (1976).

Subsequent to the filing of the Application, the Executive Director of the Commission instructed the Applicant to cause to be published a prepared Notice of Filing in certain newspapers of general circulation in the State of South Carolina. The Notice of Filing indicated the nature of the Application and advised all

interested parties desiring to participate in the proceeding of the manner and time in which to file the appropriate pleadings. The Notice of Filing was duly published in accordance with the instructions of the Executive Director. Petitions to Intervene were filed by Carey Moving & Storage, Inc.; Smith Dray Line & Storage Co., Inc.; Bland Moving & Storage Co., Inc.; and Forest Hills Transfer & Storage, Inc.

A public hearing was held in the offices of the Commission on July 5, 1995; the Honorable Rudolph Mitchell, Chairman, presided. The Applicant appeared pro se. Carey Moving & Storage, Inc., Smith Dray Line & Storage Co., Inc., and Bland Moving & Storage Co., Inc. were likewise not represented by counsel. The Commission Staff was represented by Florence P. Belser, Staff Counsel. Intervenor Forest Hills Transfer & Storage, Inc. did not appear at the hearing.

Witnesses presented were Jimmie Ray Collins and Annette Costa for the Applicant and Pat Carey, Jim Mullen, and Bill Bland for the Intervenor.

After full consideration of the testimony presented, and the applicable law, the Commission makes the following findings of fact and conclusions of law:

#### FINDINGS OF FACT

1. South Carolina Code Ann. §58-23-590 (as amended by the 1995-1996 General Appropriations Bill, H. 3362, R. 211) provides in relevant part as follows:

[t]he commission shall issue a common carrier certificate or contract carrier permit of public

convenience and necessity if the applicant proves to the commission that:

- (1) it is fit, willing, and able to properly perform the proposed service and comply with the provisions of this chapter and the commission's regulations; and
- (2) the proposed service, to the extent to be authorized by the certificate or permit, is required by the present public convenience and necessity.

The Commission shall adopt regulations that provide criteria for establishing that the applicant is fit, willing, and able, and criteria for establishing that the applicant must meet the requirement of public convenience and necessity. The determination that the proposed service is required by the public convenience and necessity must be made by the commission on a case-by-case basis.

2. 26 S.C. Code Ann. Regs. 103-134(1)(A)(1) (Supp. 1994) provides, in relevant part, that the Commission use the following criteria to determine whether an applicant is fit, willing, and able to provide the requested services:

- (a) FIT The applicant must demonstrate or the Commission determine that the Applicant's safety rating is satisfactory. This can be obtained from U.S.D.O.T., SCDHPT, and PSC safety records. Applicant should also certify that there are no outstanding judgments pending against such applicant. The applicant should further certify that he is familiar with all statutes and regulations, including safety regulations, governing for-hire motor carrier operations in South Carolina and agrees to operate in compliance with these statutes and regulations.
- (b) ABLE The applicant should demonstrate that he has either purchased, leased, or otherwise arranged for obtaining necessary equipment to provide the service for which he is applying. The applicant should also provide evidence in the form of insurance policies or insurance quotes indicating that he is aware of the Commission's insurance requirements and the cost associated therewith.
- (c) WILLING Having met the requirements as to "fit and

able," the submitting of the application for operating authority would be sufficient demonstration of the applicant's willingness to provide the authority sought.

3. "The doctrine of [public] convenience and necessity is a relative or elastic theory. The facts in each case must be separately considered and from those facts it must be determined whether public convenience and necessity requires a given service to be performed or dispensed with." State v. Carolina Coach Company, 260 N.C. 43, 53, 132 S.E.2d 249, 255 (1963).

4. "'Necessity' means reasonably necessary and not absolutely imperative." Id. citing State v. Southern Railway Co., 254 N.C. 73, 79, 118 S.E.2d 21, 25 (1961). "... It is necessary if it appears reasonably requisite, is suited to and tends to promote the accommodation of the public." Id.

5. The Applicant is currently authorized by Class E Certificate of Public Convenience and Necessity No. 9548 to render common carrier service of household goods between points and places in Greenville and Spartanburg Counties, South Carolina.

6. Testifying in support of the Application were Mr. Jimmie Ray Collins and Ms. Annette Costa. Mr. Collins stated that he has received calls for intrastate moves that he cannot make because he lacks statewide authority. Mr. Collins stated that it would be an asset for his company to have statewide authority. Mr. Collins testified that he is currently making local moves within his scope of authority. Mr. Collins further testified that he has the necessary equipment to perform the services requested, that he has adequate insurance on file with the Commission, that he possesses a

satisfactory safety rating, and that he has no judgments filed against him. Ms. Costa, office manager for Collins Moving & Storage, testified that Collins Moving & Storage is a professional company which is primarily concerned with customer satisfaction. Ms. Costa stated that she has received numerous calls requesting intrastate moves and that they would like to be able to service these calls.

7. Pat Carey of Carey Moving & Storage, Inc. testified that his companies can handle all the business given to them at this time and that he was not aware of having refused any movers due to lack of capacity. Mr. Carey also offered that there currently are plenty of movers available to service the public now and for the foreseeable future.

8. Jim Mullen of Smith Dray Line & Storage Co., Inc. testified that in his opinion there is sufficient capacity to serve the moving public. Mr. Mullen testified that he noticed idle trucks (four straight trucks and two tractor trailers) on Mr. Carey's yard the morning of the hearing. Regarding available capacity, Mr. Mullen stated that he has trucks available at this time to make moves. Mr. Mullen says he questions the need for additional movers in the state because there are times when his company has employees and trucks sitting idle. Mr. Mullen also testified that there are approximately thirty movers advertised in the Greenville-Spartanburg area and that capacity is currently available to the public.

9. Bill Bland of Bland Moving & Storage Co., Inc. testified

that approximately 60% of the volume of his moves are with the State of South Carolina. Mr. Bland admitted that June is a busy month, but that his company has not refused any moves given sufficient notice. Mr. Bland also testified that there is not really a lot of business out there that is totally within South Carolina, and that all of the movers are competing for the same business. Mr. Bland also expressed concern over the financial stability of the movers in this state.

#### CONCLUSIONS OF LAW

1. While the Applicant is currently certificated to provide household moving services in Greenville and Spartanburg Counties, and while it appears that the Applicant is fit, willing, and able to perform the proposed Class E services for which it seeks authority, the Commission concludes that the Applicant has not met its burden under to show that the proposed services are required by the present public convenience and necessity.

2. According to the testimony of the Intervenors, there currently exist sufficient household movers to serve whatever needs the public may have in this area. The Commission concludes that the public convenience and necessity is currently being served in this area with respect to household goods carriers.

3. Based on the foregoing conclusions, the Application of the Applicant is denied.

IT IS THEREFORE ORDERED THAT:

1. The Application of Jimmie Ray Collins d/b/a Collins Moving & Storage to amend Class E Certificate of Public Convenience and

Necessity No. 9548 is hereby denied.

2. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

  
Chairman

ATTEST:

  
Executive Director

(SEAL)